

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

PATRICIO LINARES,

Plaintiff,

-v.-

9:03-CV-1408 (LEK/ RFT)

ALBRITH,¹ Registered Nurse; *et al.*,

Defendants.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on January 9, 2009 by the Honorable Randolph F. Treece, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3 of the Northern District of New York. Report-Rec. (Dkt. No. 101).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. Objections to the Report-Recommendation were due by January 26, 2009. On January 21, 2009, the Court granted Plaintiff's request for an extension until February 23, 2009 to file objections to the Report-Recommendation. Dkt. No. 102. On February 25, 2009, the Court received another request for an extension. Dkt. No. 103. Per Text Order dated February 27, 2009, the Court granted Plaintiff a further extension until March 20, 2009. On March 20, Plaintiff filed

¹ As noted in the Report-Recommendation, Plaintiff misnamed Defendants "Albrith," "DeLaRosa," and "Eri Schwebke," whose correct names are M. Joy Albright, Anthony DeRosa and Eric Schwebke.

yet another request for an extension (Dkt. No 104), which the Court denied per Text Order on March 23, 2009.

Thus, no objections have been raised in the allotted time with respect to Judge Treece's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

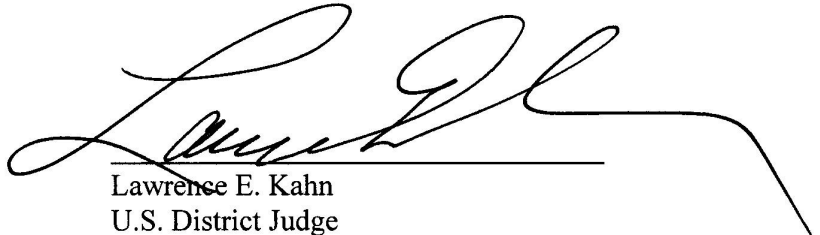
ORDERED, that the Report-Recommendation (Dkt. No. 101) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

ORDERED, that in supplementing the record to the Second Circuit, the Court adopts the facts as set forth by Magistrate Judge Treece in the Report-Recommendation as undisputed, and finds that the Plaintiff did not exhaust his available administrative remedies with regard to the deliberate indifference claims stated against Defendants Schwebke and Albright nor the retaliation claim against Defendant Albright; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: March 25, 2009
Albany, New York



Lawrence E. Kahn
U.S. District Judge